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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's post-2005 Energy Efficiency Policies, Programs, Evaluation, Measurement and Verification, and Related Issues.

Rulemaking 06-04-010
(Filed April 13, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING FINDING
THE UTILITY REFORM NETWORK, WOMEN'S ENERGY MATTERS AND
THE COMMUNITY ENVIRONMENTAL COUNCIL
ELIGIBLE TO CLAIM INTERVENOR COMPENSATION**

I. Summary

The Utility Reform Network (TURN), Women's Energy Matters (WEM), and the Community Environmental Council (CEC) are eligible to claim intervenor compensation in this proceeding. A finding of eligibility does not necessarily guarantee an award of compensation. The requirements of Pub. Util. Code §§ 1801-1804¹ are addressed below.

II. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer who intends to seek a compensation award shall, within 30 days after the Prehearing Conference (PHC), file and serve a Notice of Intent (NOI) to claim compensation on all parties to the proceeding.

¹ All statutory references are to the Pub. Util. Code.

The PHC in this proceeding was held on May 9, 2006. TURN and WEM timely filed NOIs on June 8, 2006, the final filing date.

On June 5, 2006, CEC served its NOI electronically on the service list and mailed a hard copy to the Docket Office, from Santa Barbara, by first class mail. CEC expected the NOI to arrive within three days of mailing, but instead it arrived in the Commission's Docket Office on June 13, 2006, five days after the filing deadline. By e-mail dated June 15, 2006, assigned Administrative Law Judge (ALJ) Gottstein accepted the filing as timely after confirming the post-mark and further advised CEC that any future filings should be made by over-night mail. In view of these circumstances, CEC's NOI is timely filed. No opposition was filed to any of these NOIs.

B. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

TURN, WEM, and CEC meet this requirement as all are organizations, as described in §1802(b)(1)(C), authorized pursuant to its articles of incorporation to represent the interests of their members, many of whom are residential ratepayers.

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant

financial hardship in the NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

WEM meets this requirement as it showed the economic interests of its individual members are small in comparison to the costs of effective participation.

TURN and CEC meet this requirement through a rebuttable presumption of eligibility, pursuant to §1804(b)(1), as both were found eligible for compensation in another proceeding that commenced within one year of this proceeding (ALJ Ruling dated November 4, 2005, in Application 05-02-027 for TURN; and ALJ Ruling dated March 6, 2006, in Order Instituting Investigation 05-09-005 for CEC). Should any party rebut the presumption, TURN and CEC are granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal filing.

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires an NOI to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. The May 24, 2006 Scoping Memo in this proceeding outlined six categories of issues.

TURN states it intends to participate in all aspects of this proceeding. TURN intends to focus on incentive mechanisms, program evaluation and measurement, policy rules, and 2006-2008 portfolio plans

WEM states it also intends to participate in all phases of this proceeding. WEM will focus on incentives, reporting protocols and requirements, updated program goals, and initiation of the 2009-2011 planning cycle.

CEC states it will participate in many elements of this proceeding, attend meetings and hearings, and make applicable contributions. CEC will focus on incentive mechanisms and long-term energy efficiency goals for post-2008.

TURN, WEM, and CEC intend to coordinate, as much as possible, with other parties in order to avoid unnecessary duplication of effort.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

TURN estimates a total projected budget of \$280,400 for this case, as outlined below, based on proposed hourly rates that TURN will address in its request for compensation. The estimate breaks down as follows:

Amount	Description
\$32,400	120 hours by attorney Marcel Hawiger at \$270/hour
\$70,000	350 hours by attorney Hayley Goodson at \$200/hour
\$8,000	20 hours by a TURN supervising attorney at \$400/hour
\$170,000	Expert Consultants
\$280,400	Total

WEM estimates a total projected budget of \$78,400 for this case, as outlined below, based on proposed hourly rates that WEM will address in its request for compensation. The estimate breaks down as follows:

Amount	Description
\$45,000	250 hours by Executive Director Barbara George at \$180/hour
\$31,900	100 hours by attorney Dan Meek at \$319/hour
\$1,500	Related Expenses
\$78,400	Total

CEC estimates a total projected budget of \$60,200 for this case, as outlined below, based on proposed hourly rates that CEC will address in its request for compensation. The estimate breaks down as follows:

Amount	Description
\$33,000	150 hours by attorney Tam Hunt at \$220/hour
\$8,800	40 hours of outside consultant time at \$220/hour
\$12,000	80 hours of expert witness time at \$150/hour
\$6,400	Expenses, including travel
\$60,200	Total

TURN, WEM and CEC have satisfactorily presented itemized estimates of the compensation they expect to request, although we will require far more specificity in its consultant costs when each ultimately seeks compensation. Moreover, the number of hours and the hourly rates may be excessive and, as must any intervenor, TURN, WEM and CEC must fully support its request for compensation, including the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. The Utility Reform Network (TURN), Women's Energy Matters (WEM), and the Community Environmental Council (CEC) have met the eligibility requirements of Public Utilities Code Section 1804(a), including the requirement of establishing significant financial hardship; and TURN, WEM, and CEC are found eligible for intervenor compensation in this proceeding.
2. TURN, WEM, and CEC are customers as that term is defined in § 1802(b)(1)(C), as a group or organization authorized to represent the interests of residential ratepayers.
3. A finding of eligibility in no way assures compensation.

Dated June 28, 2006 at San Francisco, California.

/s/ MEG GOTTSTEIN
Meg Gottstein
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated June 28, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

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